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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALICIA INES MOYA GARAY, JUAN
JAIME LOPEZ-JIMENEZ, and ARRIBA
LAS VEGAS WORKER CENTER,

Plaintiffs,

VS.

CITY OF LAS VEGAS, a municipality; MICHELE FREEMAN, in her official capacity as City of Las Vegas Chief of Department of Public Safety; BANANTO SMITH, in his official capacity as Deputy Chief of Detention Services; DOES 1 through 25, inclusive,

Defendants.

CASE NO. 2:20-cv-0119-GMN-EJY

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION TO STRIKE
DEFENDANTS' COUNTER-MOTION
FOR SUMMARY JUDGMENT**

Defendants City of Las Vegas, Michele Freeman and Bananto Smith, (hereinafter collectively referred to as “City Defendants”) by and through their attorneys of record, Bryan K. Scott, City Attorney, and Jeffrey L. Galliher, Deputy City Attorney and hereby submits its Response to Plaintiffs’ Motion to Strike Defendants’ Counter-Motion for Summary Judgment. This Response is made and based upon the papers and pleadings on file herein, and in the following Memorandum of Points and Authorities.

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I.

INTRODUCTION AND RELEVANT FACTS

This matter arises from a now-discontinued policy whereby the City of Las Vegas Department of Public Safety (“LVDPS”) would hold detainees for up to 48 hours after they would otherwise be released pursuant to an immigration detainer issued by U.S. Immigration and Customs Enforcement (“ICE”).

In October of 2019 LVDPS suspended that policy in favor of a new procedure where detainees are not held beyond the time they would otherwise be held on their “City” charges.

On January 24, 2022, Plaintiffs filed their motion for summary judgment. (Doc. 72) After reading Plaintiffs' Motion and researching the authority cited therein it became apparent to the City Defendants' counsel that this matter was ripe for summary adjudication as there are really no disputes with regard to the material facts in this case. As a result, on February 22, 2022, the City of Las Vegas filed its Opposition and a Counter-motion for Summary Judgment and Counter-motion to Dismiss. (Doc. 76) The City refiled its Counter-motions as separate entries on February 28, 2022, after being advised by the Court to do so. (Doc. 78)

II.

ARGUMENT

Throughout this litigation the City has struggled to discern the core arguments underlying Plaintiffs' complaint. As detailed in the City's Opposition and Counter-motions, the absence of ICE as a party to this case has made it impossible to determine the chain of events which took place once Plaintiffs were in ICE custody. Upon reviewing the Plaintiffs' Motion for Summary Judgment it became clear that the parties essentially agree to the operative facts. At issue, however, is whether the City's conduct in this case violates the Constitution and Federal law. After reviewing the Plaintiffs' arguments and the authority cited in support the City came to the realization that this matter is one which is ill suited for presentation to a jury. The issues to be decided in this case are issues of law, not of fact.

However, with only the Plaintiffs' Motion for Summary Judgment pending there was no mechanism in place for the Court to fully decide this matter at this stage. For example, a denial of

1 Plaintiffs' Motion for Summary Judgment would not decide the case, it would merely set it on
2 course for a trial. As stated earlier, there really are no disputed issues of fact which require the
3 attention of a jury as trier of fact. Rather, the remaining issues to be decided here are issues of
4 law, making this matter ripe for summary adjudication by this Court. In the event the Court desires
5 additional information on the arguments of the parties or clarification of any of the facts, an
6 evidentiary hearing may be appropriate.

7 **III.**

8 **CONCLUSION**

9 The material facts in this case are undisputed. Only issues of law which fall squarely within
10 the Court's purview remain undecided. The City of Las Vegas believes that judicial economy
11 dictates that the matter be fully decided as a matter of summary judgment by the Court. For the
12 reasons set forth herein Defendants respectfully request that the Court deny Plaintiffs' Motion to
13 Strike and render a decision on the parties' pending dispositive motions which resolves the matter
14 in full.

15 DATED this 15th day of March, 2022.

16 BRYAN K. SCOTT
17 City Attorney

18 */s/ Jeffrey Galliher*
19 By: _____
20 JEFFREY L. GALLIHER
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26 Michele Freeman, Bananto Smith

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2022, I served a true and correct copy of the foregoing
Defendants' Response to Plaintiffs' Motion to Strike Defendants' Counter-Motion for Summary
Judgment through the CM/ECF system of the United States District Court for the District of
Nevada (or, if necessary, by United States Mail at Las Vegas, Nevada, postage fully prepaid) upon
the following:

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/s/ *Cindy Kelly*

AN EMPLOYEE OF THE CITY OF LAS VEGAS